REMARKS

The Non-Final Office Action dated April 2, 2009 has been received and reviewed. Applicants respectfully request reconsideration of the present Application. Each of claims 1-4, 26, and 46 has been amended herein and claim 41 has been canceled. Claims 51-57 have been added herein. Thus, claims 1-7, 26-29, 46, and 51-57 remain pending. Support for the amendments may be found in the Specification, at least, at paragraphs 29, 36, 40, and 42. Care has been exercised to introduce no new matter. Applicants respectfully request reconsideration of the present Application in view of the above amendments and the following remarks.

Rejections based on 35 U.S.C. § 101

Claims 1-7, 26-29, and 41 have been rejected under 35 U.S.C. § 101 because the invention, as claimed, was ostensibly directed to non-statutory subject matter. Claim 41 has been canceled by way of the present communication, thus, rendering the rejection of this claim moot.

Independent claim 1 was said to be directed to non-statutory subject matter for failing to be tied to a machine. *See Office Action dated 04/02/2009*, Pg. 3, lines 4-6. Independent claim 1 has been amended to recite, in part, "a computer-implemented method" that utilizes "a first . . . [and] a second computer process . . . wherein the first and second computer processes are executed utilizing one or more computing devices." Thus, independent claim 1 is directly tied to a machine and directed to statutory subject matter. Applicants respectfully request withdrawal of the 35 U.S.C. § 101 rejection of claim 1.

Independent claim 26 was said to be directed to "software per se." *Id.* Independent claim 26 has been amended to recite, in part, "a computer system including one or more computer-readable storage media having computer-executable modules stored thereon . . .

the computer-executable modules comprisin[g]." Applicants submit that claim 26 constitutes a physical article that falls within the statutory classes of 35 U.S.C. § 101. As such, Applicants respectfully request withdrawal of the 35 U.S.C. § 101 rejection of claim 26.

Rejections based on 35 U.S.C. § 112

Claims 1-7, 41, and 46 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 41 has been canceled by way of the present communication, thus, rendering the rejection of this claim moot.

Claims 1-7 and 46 have been amended such that the conditional statements are no longer present. For instance, the conditional phrase "whether" has been removed from independent claim 1 and independent claim 46 has been amended to include alternative steps. As such, Applicants respectfully request withdrawal of the § 112, second paragraph, rejection of claims 1-7 and 46.

Rejections based on 35 U.S.C. § 102(a)

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdeggal Brothers v. Union Oil co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 2 USPQ 2d 1913, 1920 (Fed. Cir. 1989). *See also*, MPEP § 2131.

Claims 1-7, 26-29, 41 and 46 have been rejected under 35 U.S.C. § 102(a) as being anticipated by "Combining Tabular, Rule-Based, and procedural Knowledge in Computer-

Based Guidelines for Childhood Immunization" by Miller et al (hereinafter "the Miller reference"). Claim 41 has been canceled by way of the present communication, thus, rendering the rejection of this claim moot. As the Miller reference fails to describe, either expressly or inherently, each and every element as set forth in the claims, Applicants respectfully traverse this rejection.

Independent claim 1 is directed to a computer-implemented method in a computer system for preventing one or more immunizations from being administered to a person too early. The method comprises, in part, receiving from a clinician, utilizing a first computer process, an identification of an immunization to be administered to a person, wherein the identification of the immunization is input by the clinician during a clinical visit with the patient; in response to receiving the identification of the immunization to be administered during the clinical visit, determining, utilizing a second computer process, it is too soon to administer the immunization; and based on a determination that it is too soon to administer the immunization, displaying a warning that the immunization is being administered too soon.

In contrast, the Miller reference is directed to a computer program which implements the clinical guidelines for childhood immunization. *See*, Miller, Pg. 211. The program accepts a child's immunization history and indicates vaccinations that are due and those that should be scheduled next. *Id.* Thus, an output is generated based on a vaccination history.

With respect to independent claim 1, the Miller reference fails to disclose receiving from an clinician, an identification of an <u>immunization to be administered</u> to a person, wherein the identification of the immunization is <u>input by the clinician during a clinical visit with the patient</u>. Rather, the Miller reference describes a child arriving at a clinic and an immunization history being entered. *Id.* at Pg. 214. Other information received includes the date

of birth, the date of the forecast (e.g., the date the patient arrives at the clinic), the dates of all previous vaccinations, and a list of any vaccines that are contraindicated for the child. *Id.* As such, the Miller reference does not describe a clinician inputting an identification of <u>an immunization to be administered during the clinical visit with the patient</u> but, rather, only describes an input of a vaccine history.

Further, the Miller reference also fails to describe displaying a warning that the immunization is being administered too soon, based on a determination that it is too soon to administer the immunization, as recited in independent claim 1. Rather, the Miller reference describes simply receiving a patient's date of birth, the date of visit, previous vaccinations, etc., in order to generate an output table of an immunization schedule for the child. *Id.* The table indicates whether any of the <u>previous</u> doses were given too soon. *Id.* The table also indicates any vaccinations which are due and other vaccinations that should be scheduled next. *Id.* The Miller reference does not display a warning that the immunization is <u>being</u> administered too soon, but, rather, indicates <u>previous</u> premature doses such that they are not counted as a valid vaccination. The table indicates a minimum age and minimum wait intervals from previous doses, but that is in stark contrast to a warning that is displayed when an input immunization is being administered too soon. Thus, Applicants respectfully submit that the Miller reference does not anticipate this feature.

As such, it is respectfully submitted that the Miller reference fails to anticipate independent claim 1. Accordingly, withdrawal of the 35 U.S.C. § 102(a) rejection of this claim is respectfully requested. As claims 2-7 depend directly or indirectly from claim 1, withdrawal of the § 102(a) rejection of these claims is requested as well.

Independent claim 26 is directed to a computer system including one or more computer-readable storage media having computer-executable modules stored thereon for preventing one or more immunizations from being administered to a person too early. Claim 26 recites, in part, a receiving module for receiving from a clinician an identification of the immunization to be administered to a person during a clinical visit, wherein the identification of the immunization is received from the clinician during the clinical visit and a displaying module for displaying a warning that the immunization is being administered too soon. For the reasons set forth above with respect to independent claim 1, the Miller reference fails to anticipate independent claim 26. Accordingly, withdrawal of the 35 U.S.C. § 102(a) rejection of this claim is respectfully requested. As claims 27-29 depend directly or indirectly from claim 26, withdrawal of the § 102(a) rejection of these claims is requested as well.

Independent claim 46 is directed to a computer-storage medium having computer-executable instructions for performing a method for preventing one or more immunizations from being administered to a person too early. Claim 46 recites, in part, receiving from a clinician an identification of an immunization to be administered to a person, wherein the identification of the immunization is input by the clinician during a clinical visit with the person; based on a determination that it is too soon to administer the immunization, displaying a warning that the immunization is being administered too soon, wherein the warning is a first pop-up warning window; based on a determination that it is not too soon to administer the immunization, determining whether the immunization will cause an adverse reaction to the person; upon determining that the immunization will cause an adverse reaction, displaying a warning that the immunization will cause an adverse reaction via a second pop-up warning window; and upon

determining the immunization will not cause an adverse reaction, displaying a message that the immunization may be administered during the clinical visit.

For the reasons set forth above with respect to independent claim 1, the Miller reference fails to anticipate every feature of independent claim 46. Further, the Miller reference fails to anticipate additional features of claim 46. For example, the Miller reference fails to disclose determining whether the immunization will cause an adverse reaction. Rather, the Miller reference receives as an input a list of any vaccines which are contraindicated for the child. *See*, Miller, Pg. 214. A determination whether the immunization to be administered is will cause an adverse reaction is not disclosed in the Miller reference. Further, a second pop-up warning window displayed upon determining that the immunization will cause an adverse reaction is not disclosed in the Miller reference.

As such, it is respectfully submitted that the Miller reference fails to anticipate independent claim 46. Accordingly, withdrawal of the 35 U.S.C. § 102(a) rejection of this claim is respectfully requested.

New Claims

Claims 51-57 have been added by way of the present communication. Applicants believe that claims 51-57 are in condition for allowance and such favorable action is respectfully requested for at least the above-noted reasons.

CONCLUSION

For at least the reasons stated above, claims 1-7, 26-29, 46, and 51-57 are believed to be in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or jdickman@shb.com (such communication via email is herein expressly granted) – to resolve the same.

Submitted herewith is a request for a one-month extension of time, along with the appropriate fee. It is believed that no additional fee is due, however, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112, referencing attorney docket number CRNI.107715.

Respectfully submitted,

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